Chapter 3

Performance and Results

Enquiries and Complaints Processing

Fig. 3.1 Enquiry Counter

3.1 Enquiries and complaints rose yet again this year, as shown in **Fig. 3.2**, with 14,005 enquiries and 5,386 complaints received, 15.1% and 8.0% increases respectively over last year's figures. The number of complaints received this year was the second highest ever recorded, after 5,606 in 2006/07.

Fig. 3.2

Enquiries and Complaints Received

Year	Enquiries	Complaints	
		only for us[1]	including those copied to us
2004/05	11,742	3,802	4,654
2005/06	14,633	3,828	4,266
2006/07	15,626	5,606	6,114
2007/08	12,169	4,987	5,419
2008/09	14,005	5,386	5,945

[1] These figures exclude "complaints to others copied to us" : see Glossary of Terms in Annex 5. It was termed "potential complaints" before 2006/07.

Topical Complaints

3.2 In recent years, there have consistently been complaints coming in in groups, organised or not, triggered by some social or topical issues attracting public attention or affecting a section of the community. In 2006/07, Typhoon Prapiroon and the Broadcasting Authority's criticism of a Radio Television Hong Kong programme resulted in over 1,500 complaints being lodged with our Office. Last year, three issues – namely, the Obscene Articles Tribunal's determination of certain articles in a university students' publication as indecent, the management responsibility of a footbridge linking two housing estates and a new arrangement of the Leisure and Cultural Services Department for registration for certain sports training course – brought in some 1,100 complaints.

3.3 This year, we received a total of 853 topical complaints, most of them arising from two issues:

- a controversial question in a public examination, attracting 90 complaints;
- the minibond incident, resulting in some 650 complaints.

3.4 Since topical complaints have a set of essentially common and often even identical complaint points, we conduct inquiries into them as if for one case. However, on conclusion we always reply individually to each complainant who has provided the necessary personal particulars.

3.5 Invariably, topical complaints inflate our complaints statistics and thus affect the overall pattern of both complaints received and the outcome of our inquiries. For more accurate reflection of our caseload, starting from this year our statistics will indicate the number of topical complaints where appropriate (see **Table 1**).

Mode of Lodging Complaints

3.6 As **Fig. 3.3** shows, email continued to rise in popularity as a channel for lodging complaints, replacing letter by post as the most frequently used mode this year. Complaints lodged by complaint form increased sharply more than 1.5 times, from 486 last year to 1,300 this year. The bulk of them was topical complaints related to the minibond losses. Complaints by post roughly returned to the previous level, after the sudden surge last year because of the housing estate topical complaints mentioned in **para. 3.2** above.

Fig. 3.3

Mode of Lodging Complaints					
Mode	**2004/05**	**2005/06**	**2006/07**	**2007/08**	**2008/09**
In person	396	231	412	251	370
In writing –					
by complaint form	934	613	586	486	1,300
by letter through post	1,599	1,303	1,002	1,829	936
by fax	615	863	836	753	890
by email	821	902	2,461	1,380	1,515
By telephone	289	354	309	288	375
Total	**4,654**	**4,266**	**5,606**[2]	**4,987**[2]	**5,386**[2]

[2] Figures since 2006/07 exclude "complaints to others copied to us".

Complaints Handled

3.7 The number of complaints handled and concluded this year reached a record high, at 6,671 and 5,701 respectively. Among the cases concluded, 2,684 (47.1%) were pursued, 1,108 (19.4%) screened out being under restrictions by law or outside our jurisdiction (see **Chapter 1**); and 1,909 (33.5%) not pursued (see **para. 3.10**). A breakdown of our caseload for the past five years is in **Table 1**.

3.8 Most (85.3%) of the cases pursued and concluded in the year were handled by way of RAC ("Rendering Assistance and Clarification").

3.9 Compared with last year, more cases (247) were fully investigated. Among them 187 were topical complaints, including 161 relating to the housing estate case (see **para. 3.2**).

Fig. 3.4

Complaints Pursued and Concluded					
	2004/05	**2005/06**	**2006/07**	**2007/08**	**2008/09**
Preliminary Inquiries	1,873	1,758	1,643	1,938	2,437
INCH	209	185	143	81	148
RAC	1,664	1,573	1,500	1,857	2,289
Full Investigation	125	55	71	38	247
Mediation	6	12	2	1	0
Total	**2,004**	**1,825**	**1,716**	**1,977**	**2,684**

3.10 Cases not pursued were complaints *withdrawn* by the complainant, *discontinued* by our Office after initial inquiry or *not undertaken* because further inquiry was considered unnecessary. The main reasons for not undertaking a complaint are:

- a *prima facie* case of maladministraton is not established;
- the complainant is merely expressing opinions or seeking assistance;
- the complainant has refused to consent to disclosure of personal data, necessary for our inquiries;
- the organisation concerned is already taking action on the matter; or
- there is another authority for the matter.

3.11 A significant number of the cases not undertaken this year were the topical complaints about the minibond issue. We noted that the Hong Kong Monetary Authority and the Securities and Futures Commission were already taking action and the Legislative Council was conducting an inquiry.

Major Causes for Complaint

3.12 The four causes most often mentioned by complainants were:

- error, wrong decision or advice;
- ineffective control;
- failure to follow procedures, delay; and
- disparity in treatment, unfairness, selective enforcement.

As **Fig. 3.5a** shows, "error, wrong decision or advice" has consistently topped the list with the exception of last year. "Ineffective control" came second this year, largely because of the topical complaints arising from the minibond losses.

Fig. 3.5a

Causes for Complaint in the Last Four Years

Nature of allegation/maladministration identified	% among all concluded cases[@]			
	2005/06	2006/07	2007/08	2008/09
Error, wrong decision/advice	23.8%	46.5%	24.3%	29.4%
Ineffective control	10.0%	6.5%	6.7%	16.2%
Failure to follow procedures, delay	14.7%	11.0%	13.3%	14.3%
Disparity in treatment, unfairness, selective enforcement	7.3%	7.4%	25.4%	14.1%
Negligence, omissions	11.1%	8.0%	8.3%	7.6%
Lack of response to complaint	6.4%	5.0%	5.3%	5.1%
Faulty procedures	4.8%	5.7%	5.4%	4.2%
Staff attitude	5.8%	4.7%	5.2%	3.7%
Abuse of power	4.0%	3.2%	4.4%	2.9%
Others	12.1%	2.0%	1.7%	2.5%

@ The total number of cases concluded in 2005/06, 2006/07, 2007/08 and 2008/09 were: 4,309, 5,340, 4,644 and 5,701 respectively. They included all cases pursued, screened out and not pursued (see Table 1). Figures since 2006/07 exclude "complaints to others copied to us".

3.13 Based on full investigations into cases, the top four types of act of maladministration substantiated or partially substantiated were:

- disparity in treatment, unfairness, selective enforcement;
- error, wrong decision or advice;
- failure to follow procedures, delay; and
- negligence, omissions.

The exceptionally high percentage of acts of maladministration in the category of "error, wrong decision or advice" was attributable to the topical complaints relating to the housing case (see **para. 3.9**). Details are shown in **Fig. 3.5b**.

Fig. 3.5b

Forms of Maladministration Substantiated in the Last Four Years

Nature of allegation/ maladministration identified	% among all acts of maladministration substantiated#			
	2005/06	2006/07	2007/08	2008/09
Disparity in treatment, unfairness, selective enforcement	2.8%	2.4%	12.9%	69.7%
Error, wrong decision/advice	13.9%	12.2%	29.1%	14.5%
Failure to follow procedures, delay	30.6%	31.7%	16.1%	4.2%
Negligence, omissions	11.1%	9.8%	6.45%	3.3%
Ineffective control	19.4%	14.6%	6.45%	1.3%
Faulty procedures	5.6%	9.8%	6.45%	2.9%
Lack of response to complaint	11.1%	17.1%	16.1%	0.8%
Staff attitude	2.8%	0%	6.45%	0.4%
Abuse of power	2.8%	0%	0%	0.4%
Others	0%	2.4%	0%	2.5%

The total number of allegations substantiated, substantiated other than alleged or partially substantiated after full investigation in 2005/06, 2006/07, 2007/08 and 2008/09 were: 36, 41, 31 and 241 respectively.

Organisations Most Complained About

3.14 A full list of organisations on which enquiries and complaints were received during the year is in **Table 4**. The figures include all complaints received, whether pursued or not. We used to take these figures to determine the organisations most frequently complained. However, upon review we consider it more meaningful to rank organisations on the basis of complaints that have a prima facie case and hence are pursued by us. Accordingly, in identifying the "top ten organisations most complained about" this year, we excluded complaints that were screened out or otherwise not pursued (see **Table 3**).

3.15 On this new basis, the Food and Environmental Hygiene Department and the Buildings Department, the two departments constituting the Joint Office for seepage complaints, have overtaken the Housing Department and the Lands Department as the top two organisations most complained about this year.

3.16 Although there was some slight shift in the relative positions of some organisations in the “top ten” league, nine of the ten featured last year have remained in the league. The Television and Entertainment Licensing Authority, which was the target of a group of topical complaints last year (see **para. 3.2**), has dropped out. The tenth position this year has been taken up by the Home Affairs Department.

Outcome of Inquiries

3.17 We conducted full investigation on 247 complaints including 187 topical complaints, with 226 or 91.5% substantiated, partially substantiated or substantiated other than alleged (see Glossary of Terms in **Annex 5**), compared to 60.5% last year. If topical complaints are excluded, the percentage this year is 65%. The outcome of our full investigations is summarised in **Fig. 3.6**.

3.18 Complaints concluded after preliminary inquiries are not classified by their outcome. However, as shown in **Fig. 3.7**, among the 2,289 cases concluded by RAC, we suggested remedial action by the organisations concerned in 15.6% of the cases. This compares with 34.5%* and 18.5% in the two previous years. **Table 8** presents the detailed figures for each organisation.

* The exceptionally high percentage recorded last year was mainly due to remedial action being suggested in a group of over 300 topical complaints.

Fig. 3.6

Substantiation Rates of Complaints Concluded by Full Investigation

Classification	No. of Complaints	Percentage
Substantiated	21	8.5%
Partially substantiated	171 (161)	69.2%
Substantiated other than alleged	34 (25)	13.8%
Unsubstantiated	20 (1)	8.1%
Withdrawn/Discontinued	1	0.4%
Total	**247 (187)**	**100.0%**

(Note : Figures in brackets are topical complaints)

Fig. 3.7

Outcome of RAC Cases

Outcome	No. of Complaints	Percentage
Remedial Action Required	357	15.6%
No evidence of maladministration	1,902	83.1%
Inconclusive	30	1.3%
Total	**2,289**	**100.0%**

Direct Investigation

3.19 With the second Direct Investigation team reinstated in November 2007, we were able to take up more direct investigations in the past year: six direct investigations and four direct investigation assessments (or "mini-direct investigations"), plus six other direct investigations in progress at the end of the year. These are detailed in **Fig. 3.8**.

Fig. 3.8

(a) Direct Investigation Reports Completed in 2008/09

Date	Subject
23 June 2008	Effectiveness of the Integrated Call Centre in Handling Complaints
15 December 2008	Control of Roadside Banners
15 December 2008	Prevention of Abuse of Special Grants under the CSSA Scheme
17 December 2008	Government Measures for Street Management
23 March 2009	Support Services for Students with Specific Learning Difficulties
24 March 2009	Free Admission Scheme for Leisure Facilities from July to September 2008

(b) Direct Investigation Assessments Completed in 2008/09

Date	Subject
7 July 2008	Procedures for Reporting Breach of the Unsolicited Electronic Messages Ordinance
8 September 2008	Enforcement Against Unauthorised Extension of Business Areas by Licensed Restaurants
17 February 2009	Arrangements for Driving Test Routes
31 March 2009	Privacy Commissioner for Personal Data's Arrangements for Notifying Complainants of Refusal to Investigate

(c) Direct Investigations in Progress

Date Declared	Subject
26 June 2008	System for Development of Question Papers in Public Examinations
5 October 2008	Housing Department's Handling of Complaints Involving Property Damage or Minor Injuries
20 November 2008	Granting of Disability Allowance and Processing of Appeals by Social Welfare Department
15 January 2009	Monitoring of Lift Safety by Electrical and Mechanical Services Department
26 February 2009	Effectiveness of Administration of Code on Access to Information
19 March 2009	Procedures for Enforcement of Driving-offence Points System

Recommendations

3.20 On completion of full investigation of 60 cases (excluding topical complaints) and six direct investigations, 85 and 68 recommendations respectively were made, i.e. a total of 153. So far, 118 (77.1%) of them have been accepted by the organisations for implementation and 35 (22.9%) are still under consideration. None has been rejected.

3.21 On conclusion of a case by RAC, we make suggestions for systemic improvement where due. This year, 164 such suggestions were made, compared with 237 last year. A breakdown of these by organisations is in **Table 8**. Noticeable reduction in this category of suggestions occurred in the Buildings Department, the Food and Environmental Hygiene Department and the Lands Department, which might be attributable to the completion of the direct investigations on the subjects of seepage last year and street management this year.

Our Performance

3.22 We have laid down performance pledges for our enquiry and complaint handling. These and our record of achievement are detailed in **Annex 3**, which shows that we continued to meet our pledges fully in respect of answering enquiries by telephone and in person. In respect of answering enquiries in writing, we met our pledge in 97.7% of the cases. We also fully met our pledge in arranging group visits and talks this year.

3.23 In processing complaints, we acknowledged and completed initial assessment within five working days for 99.8% of the complaints received, against the pledge of 80%, and 99.98% within the target timeframe of ten working days, with 0.02% exceeding it. For processing cases outside jurisdiction or under restriction, we exceeded the target timeframe of 15 working days in 3.25% of the cases, compared with 1.6% last year (see **Fig. 3.9(a) and (b)**). The significant rise in the number of complaints received (see **para.3.1**) had made it increasingly difficult to finish assessing all cases within the target of 15 working days.

3.24 For cases screened in for further processing, we were able to conclude 65.9% of the cases, against the pledge of 60%, within three months. Last year, our performance was 56.4%. This year we had 1.8% of the cases not concluded within six months, our pledge timeframe for completing all cases. This was slightly better than the 2.0% last year (see **Fig. 3.9(c)**).

Fig. 3.9

(a) Response Time for Acknowledgement/Initial Assessment

Year	Response Time		
	Within 5 working days (target : 80%)	Within 6-10 working days (target : 20%)	More than 10 working days
2004/05	94.0%	4.2%	1.8%
2005/06	99.75%	0.22%	0.03%
2006/07	99.90%	0.05%	0.05%
2007/08	99.91%	0.06%	0.03%
2008/09	99.80%	0.18%	0.02%

(b) Processing Time for Cases Outside Jurisdiction or Under Restriction			
Year	Response Time		
	Within 10 working days (target : 70%)	Within 11-15 working days (target : 30%)	More than 15 working days
2004/05	62.6%	34.4%	3.0%
2005/06	40.9%	57.3%	1.8%
2006/07	90.9%	8.7%	0.4%
2007/08	88.1%	10.3%	1.6%
2008/09	77.2%	19.6%	3.2%

(c) Processing Time for Other Cases Concluded			
Year	Response Time		
	Less than 3 months (target : 60%)	Within 3-6 months (target : 40%)	More than 6 months
2004/05	43.3%	53.7%	3.0%
2005/06	56.0%	41.0%	3.0%
2006/07	57.1%	40.3%	2.6%
2007/08	56.5%	41.5%	2.0%
2008/09	65.9 %	32.3%	1.8%

3.25 Processing time is not always within our control. Longer processing time was necessary in some cases because of factors such as:

- complexity of the case;
- voluminous documents for scrutiny and analysis;
- new developments mid-stream;
- complainee organisations requiring more time for response to our inquiries; and
- parties challenging our findings.

Overview

3.26 As anticipated, the publicity programme launched towards the end of the last reporting year and the roughly bi-monthly declaration of findings of our direct investigations resulted in another upsurge of cases this year. The impact on our Assessment Team, vetting cases on receipt, was immediate and immense. To cope with this influx, we strengthened the assessment complement and, where necessary, mobilised the investigation teams to help out. With dedication and diligence, our staff managed to maintain our service standard.

3.27 We continued to improve our complaint database and statistical presentation, so that they can reflect more accurately both our workload and the pattern of complaints. To this end, further to the exclusion since 2006/07 of complaints to other organisations copied to us this year, responding to the continuing trend for topical complaints, we indicated in our statistical tables the number of such complaints for both complaints received and

those concluded. For a more meaningful view of our work pattern and the organisations most prone to complaint, we base the "top ten" league on complaints with some substance.

3.28 We endeavour to enhance our performance, even with the challenge of increasing workload. We aim to provide useful feedback to the organisations within our purview as well as to the community at large.